IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

MONDAY, THE 22ND JANUARY 2007 / 2ND MAGHA 1928

WP(C).No. 1871 of 2007(W)

PETITIONERS:

1. KOTTAYIL RADHAKRISHNAN,
   S/O. GOPALAN ADIYODI, KOTTAYIL VEEDU,
   ORAKKATTERI P.O., VADAKARA, KOZHIKODE DISTRICT.

2. K.GOPALAKRISHNAN,
   KANNAM BATHU VEEDU, ORAKKATTERI P.O.,
   VADAKARA, KOZHIKODE DISTRICT.

3. K.P.SUKUMARAN, S/O. KRISHNAN,
   KRIPASUDHA, ORAKKATTERI P.O.,
   VADAKARA, KOZHIKODE DISTRICT.

BY ADV. SRI.C.VALSALAN
SRI.K.RAKESH ROSHAN
SMT.THUSHARA.V

RESPONDENTS:

1. STATE OF KERALA, REP. BY
   THE SECRETARY, DEPARTMENT OF CO-OPERATION,
   SECRETARIAT, THIRUVANANTHAPURAM.

2. THE JOINT REGISTRAR OF CO-OPERATIVE
   SOCIETIES (GENERAL), SAHAKARAN BHAVAN,
   KOZHIKODE.

3. THE ASSISTANT REGISTRAR (GENERAL)
   OF CO-OPERATIVE SOCIETIES, MINI CIVIL STATION,
   BADAGARA, KOZHIKODE DISTRICT.

4. THE ERAMALA CO-OPERATIVE URBAN
   SOCIETY LTD., P.O.ORKATTERY,
   KOZHIKODE DISTRICT, REP. BY IT'S SECRETARY.

5. THE PRESIDENT,
   THE ERAMALA CO-OPERATIVE URBAN SOCIETY LTD.,
   P.O.ORAKATTERY, KOZHIKODE DISTRICT.

6. THE SECRETARY,
   THE ERAMALA CO-OPERATIVE URBAN SOCIETY LTD.,
   P.O.ORKATTERY, KOZHIKODE DISTRICT.

BY GOVT. PLEADER SRI.P.N.SANTHOSH.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 22/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.M. JAMES, J.

W.P.(C) No.1871 of 2007

Dated this the 22nd January, 2007.

J U D G M E N T

The writ petitioners did not participate in the committee meetings of the 4th respondent Society on five consecutive occasions. As per the bye-law of the 4th respondent Society, if a member of the managing committee fails to participate in the meetings on three consecutive occasions, he could be disqualified under clause 23(iii) of the bye-laws. Exts.P1 to P3 notices were issued to the writ petitioners directing them to show cause why they should not be disqualified.

2. When the petition came up for consideration, I have directed the learned Government Pleader to verify whether any order has been passed pursuant to the issuance of Exts.P1 to P3 show cause notices. It is now submitted that disqualification orders have been passed on the writ petitioners. Counsel appearing for the writ petitioners, however, submitted that passing of such order was subsequent to the filing of the writ petition.

3. The fact remains that disqualification order has been passed against the writ petitioners under Rule 44(1)(j) of the Kerala Co-operative Societies Rules. In such circumstances, under Section 83 (1)(j) of the Kerala Co-operative Societies Act, in short 'the Act', an appeal shall lie against the order challenging the disqualification imposed on the writ petitioners. Counsel appearing for the writ petitioners submits that the objections raised to Exts.P1 to P3 may also be directed to be considered, at the time of hearing the writ petitioners, on their appeal, preferred under Section 83(1)(j) of the Act.

4. In the above facts situation, I dispose of the writ petition, without expressing any opinion on the merit of the matter, directing the writ petitioners to approach the Government, under Section 83(1)(j) of the Act. In such event, the writ petitioners shall be entitled to raise all their contentions including those raised in the objections to Exts.P1 to P3.

J.M. JAMES,
JUDGE

nj.